

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 401

Case No. 82-12

May 16, 1983

Pursuant to notice, a public hearing of the District of Columbia Zoning Commission was held on March 28, 1983. At that hearing session the Zoning Commission considered an application from the J.C. Associates to amend the Zoning Map of the District of Columbia, pursuant to Section 9101 of the Zoning Regulations of the District of Columbia. The hearing was conducted in accordance with the provisions of Chapter 6 of the Rules of Practice and Procedure before the Zoning Commission.

FINDINGS OF FACT

1. The applicant requested a change of zoning from unzoned property to C-2-A for lot 823 in Square 762, located at the rear of 203-205 Third Street, S.E. The application proposed to use the subject site as a parking garage, Unzoned property does not allow private property owners to use property until zoning is applied.
2. On December 13, 1982 at its regular monthly meeting, the Zoning Commission authorized the scheduling of a public hearing for the application and determined that it would consider R-4 as a zoning alternative.
3. The R-4 District permits matter-of-right development of residential uses (including detached, semi-detached and row single-family dwellings, and flats) with a minimum lot area of 1800 square feet, a minimum lot width of eighteen feet, a maximum lot occupancy of sixty percent, and maximum height limit of three-stories/forty feet. Conversions of buildings to apartments are permitted for lots with a minimum lot area of 900 square feet per dwelling unit. This district permits a parking garage on an alley lot with the approval of the Board of Zoning Adjustment.
4. The C-2-A District permits matter-of-right low density development including office, retail, and all kinds of residential uses to a maximum floor area ratio (FAR) of 2.5 with non-residential uses limited to 1.5 FAR, a

maximum height of fifty feet, and a maximum lot occupancy of sixty percent for residential uses. This district permits parking as a matter-of-right.

5. The subject site is an alley lot, as defined by the Zoning Regulations, is unzoned, and is improved with a one-story brick garage structure.
6. The parking garage has seven garage doors (one stationery), can accommodate six automobiles, and is similar in character to the residential garages located in many residential area of the city as well as the subject square.
7. The garage was built circa 1935, and had been used as a aarage and was owned by the Federal Government from that time until July, 1982, when the applicant purchased it. The D.C. Zoning Regulations do not apply to property owned by the Federal Government which is used for a public use.
8. The subject site comprises approximately 2,358 square feet of land. Approximately two-thirds of the site is occupied by the parking garage.
9. The site is contiguous to C-2-A zoning to the north and R-4 zoning to the east, west and south, and abuts lots 26, 814, and 819 (207 and 205 Third Street, and 233 Pennsylvania Avenue, S.E., respectively).
10. Square 762 is split-zoned between the C-2-A and R-4 Districts, and is bounded by Pennsylvania Avenue, and Second, Third and C Streets, S.E. Access to the garage is from Third or C Streets through an alley system which varies in width from twenty to ten feet.
11. The portion of Square 762 that fronts on Pennsylvania Avenue is zoned C-2-A. That frontage is mainly developed with three-story structures containing office, retail and service uses; e.g., restaurants, a dry-cleaning establishment, a bakery and bank.
12. The portion of Square 762 that fronts on Second and Third. Streets is zoned. R-4 and is developed with rowhouse-type structures devoted to residential uses. The frontage on C Street is zoned R-4 and contains a five-story apartment building.
13. The applicant also owns lot 838 (229-231 Pennsylvania Avenue) in Square 762 and leases it to three tenants; the Timberlake Restaurant, the Women's National Bank, and the Electronic Data Systems, Inc. Lot 838 is north of the subject site, and is separated from the subject site by a ten foot portion of the existing interior alley system.

14. The applicant, by representation and by testimony presented at the public hearing, intends to renovate the existing parking garage and maintain its use for the foreseeable future to serve the tenants of 229-231 Pennsylvania Avenue.
15. The applicant requested C-2-A zoning for the subject site in order to be able to continue to use the property as a parking garage without having to receive BZA approval. The applicant expressed its willingness to execute a covenant restricting its use of the subject property to parking.
16. The applicant's traffic consultant, by report dated January 1983 and by testimony presented at the public hearing, indicated that the use of the subject site as a parking facility would not adversely affect the neighborhood but, in fact, would have a positive affect. The six parking spaces that would be provided by the subject facility would reduce a shortage of approximately thirty spaces that is needed to serve Square 762. The Commission so finds.
17. The Office of Planning, by memorandum dated March 17, 1983 and by testimony presented at the public bearing, recommended R-4 zoning by the subject site. The Office of Planning was cognizant that if the property is zoned R-4, the present garage use of the site could be continued only after an additional step; namely, an approval by the Board of Zoning Adjustment (BZA). This has the effect of delaying the use of the property for a time, In the Office of Planning's view, this is a short-term consequence of the R-4 zoning as it relates to the applicant and the City.
18. In the alternative, the Office of Planning believed that if the property is zoned C-2-A, the property could be used for garage purposes immediately after the approval by the Zoning Commission. The C-2-A zoning on the property could also result in long-term use and/or development consequences which might impact the area adversely because the property could then be used for any use allowed in a C-2-A zone. In the opinion of the Office of Planning, R-4 zoning on the site would ensure that the use of the property would continue to remain in character with the surrounding area, even though, in the short term, it would require an additional step of BZA approval,
19. The D.C. Public Schools, by memorandum dated February 15, 1983, had no opposition to the continuance of the site as a parking lot,
20. The D.C. Department of Recreation (DCDR) by memorandum

dated February 7, 1983, concluded that neither district to which the subject site may be rezoned would have an appreciable affect on the DCDR.

21. The D.C. Fire Department (DCFD), by memorandum dated February 22, 1983, reported that the map amendment would have no adverse affect on the DCFD.
22. The D.C. Department of Transportation (DCDOT), by memorandum dated March 17, 1983, reported that the C-2-A rezoning would have a negligible impact on the surrounding street system.
23. Advisory Neighborhood Commission (ANC)-6B, by letter dated March 2, 1983, recommended R-4 zoning with a "grandfathered" use for parking because it believed that C-2-A rezoning could subsequently permit commercial development in the interior of the square and cause an adverse impact.
24. The Capitol Hill Restoration Society (CHRS), by letter dated March 16, 1983, supported C-2-A zoning because of the physical location of the site between C-2-A and R-4 zoning, the existing restrictions on the uses to which an alley lot can be put, and the prospect of the facility being used as a six-car garage on a long-term basis,
25. The Women's National Bank (WNB), by letter dated February 15, 1983, supported C-2-A zoning stating that it believed the proposed use will help to ameliorate the current off-street parking congestion in the neighborhood,
26. Colby M. May, owner of the abutting lot 814, by letter dated March 17, 1983, supported C-2-A zoning for the same reasons articulated in the WNB letter.
27. Rona F. LaPrade, owner of the abutting lot 26, by letter dated March 22, 1983, supported C-2-A zoning for the same reasons, articulated in the WNB letter.
28. The Electronic Data Systems, Inc., by letter dated January 25, 1983, supported the applicant's proposal.
29. Subsequent to the conclusion of the hearing and prior to a decision by the Commission, the applicant executed a covenant restricting the use of the subject site to a parking garage, for not less than fifteen years.
30. As to the concerns of the ANC-6B, the Commission concurs with the conclusions of the applicant's traffic consultant. (Finding #16) and the DCDOT (Finding #22), and believes that the use of the property as a parking

garage will positively affect the neighborhood by providing six off-street parking spaces, The Commission notes that it has no authority to conditionally approve zoning in a map amendment application. Consequently, the Commission can not "grandfather" a use, subject to approving a map amendment application. Only the Zoning Regulations themselves can do that.

31. As to the long and short-range concerns of the Office of Planning, the Commission concurs with the conclusions of the CHRS (Finding #24) and believes that it is reasonable to believe that the subject site will be used as a parking garage for the foreseeable future. The Commission notes that the garage was purchased to serve the tenants of the applicant's commercial property. The Commission believes it is reasonable that the garage will continue to serve those tenants as long as the commercial uses remain in effect.
32. The Commission further finds that, in this instance, it is unreasonable to apply a zoning category that would render the existing structure non-conforming and require the applicant to seek relief from the BZA.
33. The Commission takes note of the executed covenant which restricts the use of the subject site to a parking garage for not less than fifteen years. The covenant was filed after the reports of the Office of Planning and ANC 6B were submitted, and negates the concerns of the Office of Planning and the ANC about other commercial use of the property for at least fifteen years.
34. No persons appeared in support of, or in opposition to the application at the hearing.
35. The action taken by the Zoning Commission on this application was referred to the National Capital Planning Commission (NCPC) under the terms of the District of Columbia Self Government and Governmental Reorganization Act. The NCPC reported that the proposed C2A zoning would not adversely affect the Federal Establishment or other Federal interests in the National Capital nor be inconsistent with the Comprehensive Plan for the National Capital.

CONCLUSIONS OF LAW

1. Rezoning to C-2-A as set forth herein is in accordance with the Zoning Act (Act of June 20, 1938, 52 Stat, 797) by furthering the general public welfare and serving to stabilize and improve the area.

2. Rezoning to C-2-A as set forth herein will promote orderly use of the site in conformity with the entirety of the District of Columbia Zoning Plan as embodied in the Zoning Regulations and Map of the District of Columbia.
3. Rezoning to C-2-A as set forth herein will not have an adverse impact on the surrounding neighborhaod.
4. The recorded covenant controlling use of the subject property under the C-2-A District for not less than fifteen years can be recognized by the Commission, and will help insure appropriate use of the site.
5. The Commission takes note of the position of Advisory Neighborhood Commission - 6B, and in its decision has accrded to the ANC, the "great weight" to which it is entitled.

RECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission of the District of Columbia hereby orders APPROVAL of the following:

Change from unzoned property to C-2-A lot 823 in Square 762 @ the rear of 203-205 Third Street, S.E.

Vote of the Commission at the public meeting held on April 18, 1983: 3-1 (Walter B. Lewis, John G. Parsons, and Lindsley Williams, to approve - Maybelle T. Bennett, opposed and George M. White, not present not voting).

This order was adopted by the Zoning Commission at its public meeting held on May 16, 1983 by a vote of 3-1 (Walter B. Lewis, John G. Parsons, and Lindsley Williams, to adopt as amended - Maybelle T. Bennett, opposed and George M. White, not voting not having participated in the case).

In accordance with Section 4.5 of the Rules of Practice and Procedure before the Zoning Commission of the District of Columbia, this amendment to the Zoning Map is effective upon publication in the D.C. Register, specifically on MAY 27 1983



LINDSLEY WILLIAMS
Chairman
Zoning Commission



STEVEN E. SHER
Executive Director
Zoning Secretariat

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